

Att'y Dkt. No. US-111

U.S. App. No: 10/673,860

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. Support for the foregoing amendments can be found in the original claims.

Restriction Requirement

Applicants acknowledge the restriction requirement, but fear the Examiner is mistaken in the withdrawal of claim 12. This claim is directed to the species of signal peptide elected by applicants, that is SEQ ID NO: 3. Applicants respectfully request examination of this claim as it falls within the elected species.

The Rejection of claims 1-4, 7, 8, 10, and 11 under 35 U.S.C. §112, 1st paragraph

The Examiner has rejected claims 1-4, 7, 8, 10, and 11 under 35 U.S.C. §112, 1st paragraph as allegedly failing to comply with the written description requirement. Although applicants do not necessarily agree with the reasoning behind the rejection as set forth on pages 3-6 of the office action, the claims have been amended to expedite prosecution to recite that the claimed method utilizes the *Corynebacterium glutamicum* AJ12036 or a mutant thereof which has been transformed with the recited genetic expression construct, and as a result, is able to secrete the heterologous protein 2-fold higher than as compared with the *Corynebacterium glutamicum* ATCC13869. The amendments to the claims also attempt to simplify the language and clarify applicant's true invention. It is asserted that the invention as claimed is fully described by the specification, particularly in tables 3 and 6, which show data comparing the production of various heterologous proteins with the control strain ATCC13869, which also contains the same genetic expression construct. However, production is 2-fold higher in the AJ12036 strain. Furthermore, it would be expected that a mutant of AJ12036 would not lose the ability to secrete heterologous protein in high capacity, similar to the parent AJ12036 since one of ordinary skill in the art would know that random mutations rarely introduce a mutation in the region responsible for the secretion ability. Furthermore,

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please note page 10, paragraph [0027], which describes examples of mutants from AJ12036, and also a mutant which does not produce cellular surface proteins. This latter mutant is preferable. A specific mutant, as set forth in claim 3, is described in the Examples. Therefore, the invention as now claimed is fully and adequately described by the specification.

For these reasons and in light of the foregoing amendment, applicants respectfully request withdrawal of the rejection.

The Rejection of claims 1, 3, and 7 under 35 U.S.C. §112, 2nd paragraph

The Examiner has rejected claims 1, 3, and 7 under 35 U.S.C. §12, 2nd paragraph as allegedly being indefinite for the recitation of "derived from". The examiner alleges that the term "derived" is non-specific and relative in nature.

Applicants respectfully disagree with the Examiner's assertions, but have amended the claims to delete the word "derived", in the interest of expediting prosecution. Applicants mean to indicate the cellular origin of the signal peptide region in the genetic expression construct in the claimed method. The claims as amended definitely and distinctly indicate that the signal peptide region is from a coryneform bacterium, and more specifically in claim 7, from *Corynebacterium ammoniagenes*. It is believed that the meaning is clear and definite.

For these reasons and in light of the foregoing amendments, applicants respectfully request that the rejection be withdrawn

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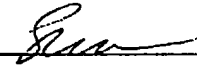
Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Vogel believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the undersigned authorizes any such charges to be made to our deposit account 50-3077.

Respectfully submitted,

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